

103^D CONGRESS
1ST SESSION

H. R. 2188

To allow certain individuals seeking part-time employment to be eligible to receive unemployment compensation, to require the Secretary of Labor to establish and carry out an annual survey relating to temporary workers, and to protect part-time and temporary workers relating to pension and group health plans.

IN THE HOUSE OF REPRESENTATIVES

MAY 19, 1993

Mrs. SCHROEDER introduced the following bill; which was referred jointly to the Committees on Ways and Means and Education and Labor.

A BILL

To allow certain individuals seeking part-time employment to be eligible to receive unemployment compensation, to require the Secretary of Labor to establish and carry out an annual survey relating to temporary workers, and to protect part-time and temporary workers relating to pension and group health plans.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Part-Time and Tem-
5 porary Workers Protection Act of 1993”.

1 **SEC. 2. ELIGIBILITY FOR UNEMPLOYMENT COMPENSATION**
2 **OF CERTAIN INDIVIDUALS SEEKING PART-**
3 **TIME EMPLOYMENT.**

4 (a) GENERAL RULE.—Subsection (a) of section 3304
5 of the Internal Revenue Code of 1986 (relating to require-
6 ments for approval of State unemployment compensation
7 laws) is amended by striking “and” at the end of para-
8 graph (17), by redesignating paragraph (18) as paragraph
9 (19), and by inserting after paragraph (17) the following
10 new paragraph:

11 “(18) in applying the State law provisions relat-
12 ing to availability for work, active search for work,
13 or refusal to accept work, the term ‘suitable work’
14 shall not include any work where the individual
15 would normally perform services for more hours per
16 week than the number of hours per week for which
17 the individual normally performed services in the in-
18 dividual’s last job in the base period, and”.

19 (b) EFFECTIVE DATE.—The amendment made by
20 subsection (a) shall take effect on the date of the enact-
21 ment of this Act.

22 **SEC. 3. ANNUAL BUREAU OF LABOR STATISTICS SURVEY**
23 **RELATING TO TEMPORARY WORKERS.**

24 The Secretary of Labor, acting through the Commis-
25 sioner of the Bureau of Labor Statistics, shall establish
26 and carry out an annual survey identifying—

1 (1) the characteristics of temporary workers in
2 the United States;

3 (2) the relationship between such workers and
4 the establishments at which such workers are tempo-
5 rarily employed; and

6 (3) where appropriate, the relationship between
7 such workers and their permanent employers.

8 **SEC. 4. PROTECTION OF PART-TIME AND TEMPORARY**
9 **WORKERS.**

10 (a) TREATMENT OF EMPLOYEES WORKING AT LESS
11 THAN FULL-TIME UNDER PARTICIPATION, VESTING, AND
12 ACCRUAL RULES GOVERNING PENSION PLANS.—

13 (1) PARTICIPATION RULES.—

14 (A) IN GENERAL.—Section 202(a)(3) of
15 the Employee Retirement Income Security Act
16 of 1974 (29 U.S.C. 1052(a)(3)) is amended by
17 adding at the end the following new subpara-
18 graph:

19 “(E)(i) For purposes of this paragraph, in the case
20 of any employee who, as of the beginning of the 12-month
21 period referred to in subparagraph (A)—

22 “(I) has customarily completed 500 or more
23 hours of service per year but less than 1,000 hours
24 of service per year, or

1 “(II) is employed in a type of position in which
2 employment customarily constitutes 500 or more
3 hours of service per year but less than 1,000 hours
4 of service per year,
5 completion of 500 hours of service within such 12-month
6 period shall be treated as completion of 1,000 hours of
7 service.

8 “(ii) For purposes of this subparagraph, the extent
9 to which employment in any type of position customarily
10 constitutes less than 1,000 hours of service per year shall
11 be determined with respect to each pension plan in accord-
12 ance with such regulations as the Secretary may prescribe
13 providing for consideration of facts and circumstances pe-
14 culiar to the work-force constituting the participants in
15 such plan.”.

16 (B) CONFORMING AMENDMENT.—Section
17 204(b)(1)(E) of such Act (29 U.S.C.
18 1054(b)(1)(E)) is amended by striking “section
19 202(a)(3)(A)” and inserting “subparagraphs
20 (A) and (E) of section 202(a)(3)”.

21 (2) VESTING RULES.—

22 (A) IN GENERAL.—Section 203(b)(2) of
23 such Act (29 U.S.C. 1053(b)(2)) is amended by
24 adding at the end the following new subpara-
25 graph:

1 “(E)(i) For purposes of this paragraph, in the case
2 of any employee who, as of the beginning of the period
3 designated by the plan pursuant to subparagraph (A)—

4 “(I) has customarily completed 500 or more
5 hours of service per year but less than 1,000 hours
6 of service per year, or

7 “(II) is employed in a type of position in which
8 employment customarily constitutes 500 or more
9 hours of service per year but less than 1,000 hours
10 of service per year,

11 completion of 500 hours of service within such period shall
12 be treated as completion of 1,000 hours of service.

13 “(ii) For purposes of this subparagraph, the extent
14 to which employment in any type of position customarily
15 constitutes less than 1,000 hours of service per year shall
16 be determined with respect to each pension plan in accord-
17 ance with such regulations as the Secretary may prescribe
18 providing for consideration of facts and circumstances pe-
19 culiar to the work-force constituting the participants in
20 such plan.”.

21 (B) 1-YEAR BREAKS IN SERVICE.—Section
22 203(b)(3) of such Act (29 U.S.C. 1053(b)(3))
23 is amended by adding at the end the following
24 new subparagraph:

1 “(F)(i) For purposes of this paragraph, in the case
2 of any employee who, as of the beginning of the period
3 designated by the plan pursuant to subparagraph (A)—

4 “(I) has customarily completed 500 or more
5 hours of service per year but less than 1,000 hours
6 of service per year, or

7 “(II) is employed in a type of position in which
8 employment customarily constitutes 500 or more
9 hours of service per year but less than 1,000 hours
10 of service per year,

11 completion of 250 hours of service within such period shall
12 be treated as completion of 500 hours of service.

13 “(ii) For purposes of this subparagraph, the extent
14 to which employment in any type of position customarily
15 constitutes less than 1,000 hours of service per year shall
16 be determined with respect to each pension plan in accord-
17 ance with such regulations as the Secretary may prescribe
18 providing for consideration of facts and circumstances pe-
19 culiar to the work-force constituting the participants in
20 such plan.”.

21 (3) ACCRUAL RULES.—Section 204(b)(4)(C) of
22 such Act (29 U.S.C. 1054(b)(4)(C)) is amended—

23 (A) by inserting “(i)” after “(C)”; and

24 (B) by adding at the end the following new
25 clauses:

1 “(ii) For purposes of this subparagraph, in the case
2 of any employee who, as of the beginning of the period
3 designated by the plan pursuant to clause (i)—

4 “(I) has customarily completed 500 or more
5 hours of service per year but less than 1,000 hours
6 of service per year, or

7 “(II) is employed in a type of position in which
8 employment customarily constitutes 500 or more
9 hours of service per year but less than 1,000 hours
10 of service per year,

11 completion of 500 hours of service within such period shall
12 be treated as completion of 1,000 hours of service.

13 “(iii) For purposes of clause (ii), the extent to which
14 employment in any type of position customarily constitutes
15 less than 1,000 hours of service per year shall be deter-
16 mined with respect to each pension plan in accordance
17 with such regulations as the Secretary may prescribe pro-
18 viding for consideration of facts and circumstances pecu-
19 liar to the work-force constituting the participants in such
20 plan.”.

21 (b) TREATMENT OF EMPLOYEES WORKING AT LESS
22 THAN FULL-TIME UNDER GROUP HEALTH PLANS.

23 (1) IN GENERAL.—Part 2 of subtitle B of title
24 I of such Act is amended—

1 (A) by redesignating section 211 (29
2 U.S.C. 1061) as section 212; and

3 (B) by inserting after section 210 (29
4 U.S.C. 1060) the following new section:

5 “TREATMENT OF PART-TIME WORKERS UNDER GROUP
6 HEALTH PLANS

7 “SEC. 211. (a) IN GENERAL.—A reduction in the em-
8 ployer-provided premium under a group health plan with
9 respect to any employee for any period of coverage solely
10 because the employee’s customary employment is less than
11 full-time may be provided under such plan only if the em-
12 ployee is described in subsection (b) and only to the extent
13 permitted under subsection (c).

14 “(b) REDUCTIONS APPLICABLE TO EMPLOYEES
15 WORKING LESS THAN FULL-TIME.—

16 “(1) IN GENERAL.—An employee is described in
17 this subsection if such employee, as of the beginning
18 of the period of coverage referred to in subsection
19 (a)—

20 “(A) has customarily completed less than
21 30 hours of service per week, or

22 “(B) is employed in a type of position in
23 which employment customarily constitutes less
24 than 30 hours of service per week.

25 “(2) REGULATIONS.—For purposes of para-
26 graph (1), whether employment in any type of posi-

1 tion customarily constitutes less than 30 hours of
2 service per week shall be determined with respect to
3 each group health plan in accordance with such reg-
4 ulations as the Secretary may prescribe providing
5 for consideration of facts and circumstances peculiar
6 to the work-force constituting the participants in
7 such plan.

8 “(c) AMOUNT OF PERMISSIBLE REDUCTION.—The
9 employer-provided premium under a group health plan
10 with respect to any employee for any period of coverage,
11 after the reduction permitted under subsection (a), shall
12 not be less than a ratable portion of the employer-provided
13 premium which would be provided under such plan for
14 such period of coverage with respect to an employee who
15 completes 30 hours of service per week.

16 “(d) DEFINITIONS.—For purposes of this section—

17 “(1) GROUP HEALTH PLAN.—The term ‘group
18 health plan’ has the meaning provided such term in
19 section 607(1).

20 “(2) EMPLOYER-PROVIDED PREMIUM.—

21 “(A) IN GENERAL.—The term ‘employer-
22 provided premium’ under a plan for any period
23 of coverage means the portion of the applicable
24 premium under the plan for such period of cov-

1 erage which is attributable under the plan to
 2 employer contributions.

3 “(B) APPLICABLE PREMIUM.—For pur-
 4 poses of subparagraph (A), in determining the
 5 applicable premium of a group health plan,
 6 principles similar to the principles applicable
 7 under section 604 shall apply.”.

8 (2) CONFORMING AMENDMENTS.—

9 (A) Section 201(1) of such Act (29 U.S.C.
 10 1051(1)) is amended by inserting “, except with
 11 respect to section 211” before the semicolon.

12 (B) The table of contents in section 1 of
 13 such Act is amended by striking the item relat-
 14 ing to section 211 and inserting the following
 15 new items:

“Sec. 211. Treatment of part-time workers under group health plans.

“Sec. 212. Effective date.”.

16 (c) EXPANSION OF DEFINITION OF EMPLOYEE TO
 17 INCLUDE CERTAIN INDIVIDUALS WHOSE SERVICES ARE
 18 LEASED OR CONTRACTED FOR.—Paragraph (6) of section
 19 3 of such Act (29 U.S.C. 1002(6)) is amended—

20 (1) by inserting “(A)” after “(6)”; and

21 (2) by adding at the end the following new sub-
 22 paragraph:

23 “(B) Such term includes, with respect to any em-
 24 ployer, any person who is not an employee (within the

1 meaning of subparagraph (A)) of such employer and who
2 provides services to such employer, if—

3 “(i) such person has (pursuant to an agreement
4 with such employer or any other person) performed
5 such services for such employer (or for such em-
6 ployer and related persons (within the meaning of
7 section 144(a)(3) of the Internal Revenue Code of
8 1986)) for a period of at least 1 year (6 months in
9 the case of core health benefits) at the rate of at
10 least 500 hours of service per year, and

11 “(ii) such services are of a type historically per-
12 formed, in the business field of the employer, by em-
13 ployees (within the meaning of subparagraph (A)).”.

14 (d) EFFECTIVE DATES.

15 (1) IN GENERAL.—Except as provided in para-
16 graph (2), the amendments made by this section
17 shall apply with respect to plan years beginning on
18 or after January 1, 1994.

19 (2) SPECIAL RULE FOR COLLECTIVELY BAR-
20 GAINED PLANS.—In the case of a plan maintained
21 pursuant to 1 or more collective bargaining agree-
22 ments between employee representatives and 1 or
23 more employers ratified on or before the date of the
24 enactment of this Act, paragraph (1) shall be ap-
25 plied to benefits pursuant to, and individuals covered

1 by, any such agreement by substituting for “Janu-
2 ary 1, 1994” the date of the commencement of the
3 first plan year beginning on or after the earlier of—

4 (A) the later of—

5 (i) January 1, 1994, or

6 (ii) the date on which the last of such
7 collective bargaining agreements termi-
8 nates (determined without regard to any
9 extension thereof after the date of the en-
10 actment of this Act), or

11 (B) January 1, 1996.

12 (3) PLAN AMENDMENTS.—If any amendment
13 made by this section requires an amendment to any
14 plan, such plan amendment shall not be required to
15 be made before the first plan year beginning on or
16 after January 1, 1995, if—

17 (A) during the period after such amend-
18 ment made by this section takes effect and be-
19 fore such first plan year, the plan is operated
20 in accordance with the requirements of such
21 amendment made by this section, and

22 (B) such plan amendment applies retro-
23 actively to the period after such amendment
24 made by this section takes effect and such first
25 plan year.

1 A plan shall not be treated as failing to provide defi-
2 nitely determinable benefits or contributions, or to
3 be operated in accordance with the provisions of the
4 plan, merely because it operates in accordance with
5 this paragraph.

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